DEPARTMENT OF STATE

ACTION MEMORANDUM

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October 30, 1978

CONFIDENTIAL

TO: The Deputy Secretary

FROM: HA - Patricia M. Derian

SUBJECT: 1979 PL 480 I Agreements - Human Rights Language Requirement

ISSUE FOR DECISION

Which PL 480 I agreements should contain a human rights clause ensuring that the commodities provided or the proceeds derived from their sale will directly benefit needy people?

ESSENTIAL FACTORS

Title I of the Agricultural Trade and Assistance Act of 1954 was amended by Public Law 95-88 of August 3, 1977 by adding Section 112 which states:

> No agreement may be entered into under this title to finance the sale of a agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such agreement will directly benefit the needy people in such country. An agreement will not directly benefit the needy people in the country for purposes of the

DECLASSIFIED
E.O. 12356, Sec. 3.5
NSC MEMO, 11/24/98, STATE DEPT. GUIDELINES
BY [illegible] NARA, DATE 8/27/99
EXDIS/NODIS/CHEX
REASON(S) 1.5 (B) (D)
DECLASSIFY ON: EXISTING MARKINGS
DECLASSIFIED/RELEASABLE
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preceding sentence unless either the commodities themselves or the proceeds from their sale will be used for specific projects or programs which the President determines would directly benefit the needy people of that country. The agreement shall require a report to the President on such use within six months after the commodities are delivered to the recipient country.

In response to this requirement, the Department, in consultation with AID, made a determination that for Fiscal Year 1978, language in accordance with the above requirement would be placed in agreements with countries where serious human rights problems exist or are widely perceived to exist by the public or Members of Congress. This liberal application of the statute would ensure compliance while avoiding the creation of a public "hit-list" which could follow from a narrower interpretation. It would also, on the other hand, minimize the accounting workload placed on our AID Missions and Title I recipient governments. Accordingly, language was placed in one third of the Fiscal Year 1979 Title I Agreements and specifically in agreements with the following countries: [redacted] H/AS

The PL 480 I list for Fiscal Year 1979 has recently been submitted to the Congress. It contains twenty-nine countries. Consensus has been reached within the Department to maintain language in the agreements with [redacted] H/AS following countries on that list: [redacted] There is also a consensus to maintain the language through the side-letter arrangement H/AS with [redacted] as long as it is not necessary to negotiate new agreements. There is also a consensus, in view of changing circumstances, to drop the language from the agreement with [redacted] proposes maintaining language H/AS in the Title I Agreement with Bangladesh and adding language to the Title I agreements with Pakistan, Syria, and Tunisia. All four were Title I recipients last year. The [redacted] H/AS

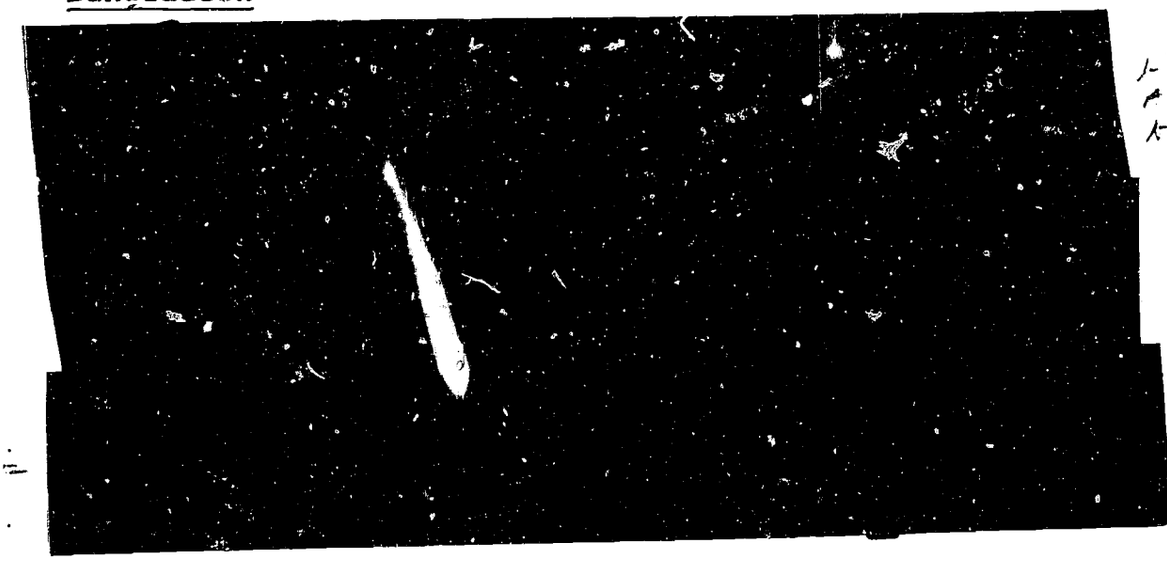
is opposed to re-inserting language in the Bangladesh agreement and to adding language in the other three.

New agreements under PL 480 Title III will be negotiated with [redacted] later in the year. With HA consensus, language was not included in the 1978 Title III agreement with [redacted] Title III by its nature ensures that the assistance provided is used to directly benefit the needy and, accordingly, it is questionable whether separate human rights related language is required. AID's General Counsel has been asked to provide guidance on this point. If needed, a separate memo on this issue will be provided subsequent to the receipt of this legal guidance.

[redacted] Positions

[redacted] positions with regard to the four Title I agreements where consensus is lacking are as follows:

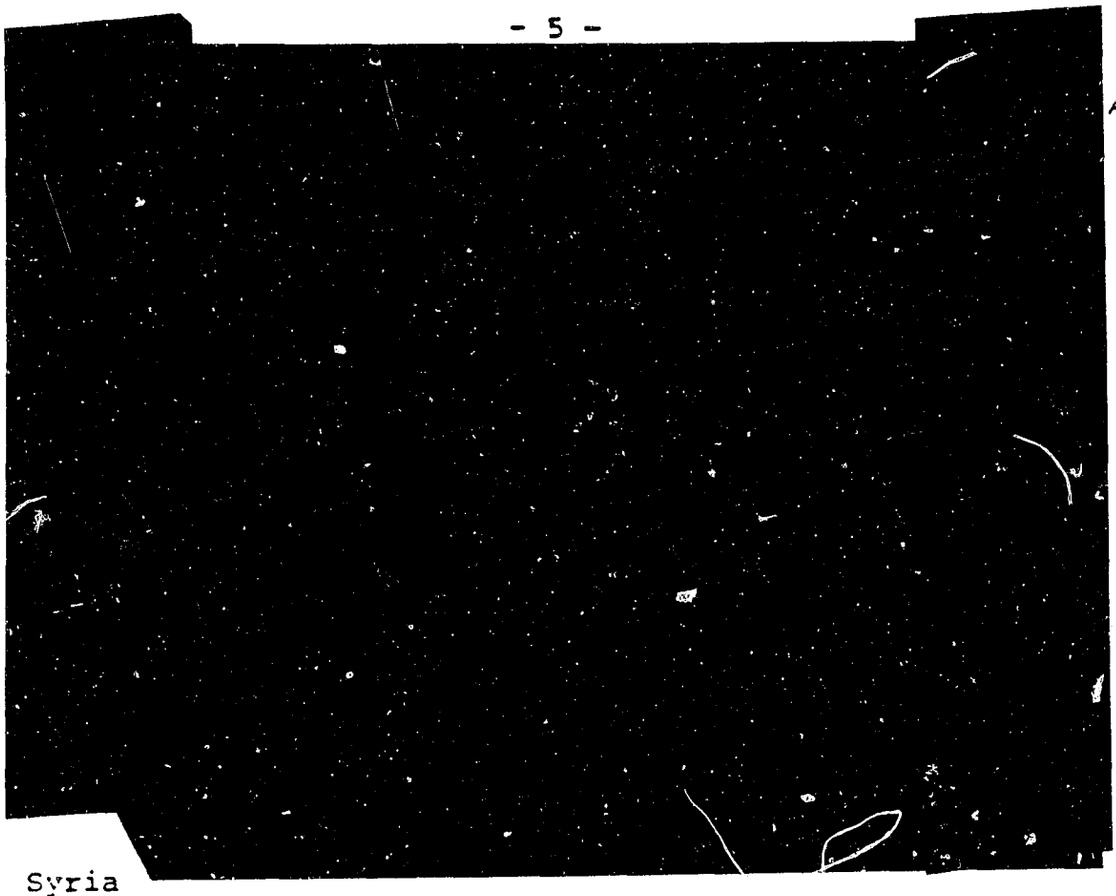
Bangladesh



[redacted] believes that although there have been some improvements in the human rights situation in Bangladesh [redacted] serious problems remain. Some 700 - 800 political prisioners remain incarcerated. Releases have been on the basis of executive amnesty. The Bangladesh Government has only partially acknowledged what are widely believed to have been either summary executions or executions after a secret trial of 217 soldiers alleged to have been involved in a mutiny in September - October 1977. Elections were held last spring as promised by the military government which resulted in General Zia, the Martial Law Administrator being elected by approximately seventy percent of the vote. Former restrictions against political parties were lifted by General Zia's administration. 20 political parties participated in the elections but two parties remain barred. For these reasons HA believes that the situation has not altered sufficiently to justify a change in our FY 1979 position regarding the necessity for inclusion of the language in the PL 480 contracts. Moreover, there is little reason to believe that the Bangladesh Government will object. They did not object last year.

Pakistan

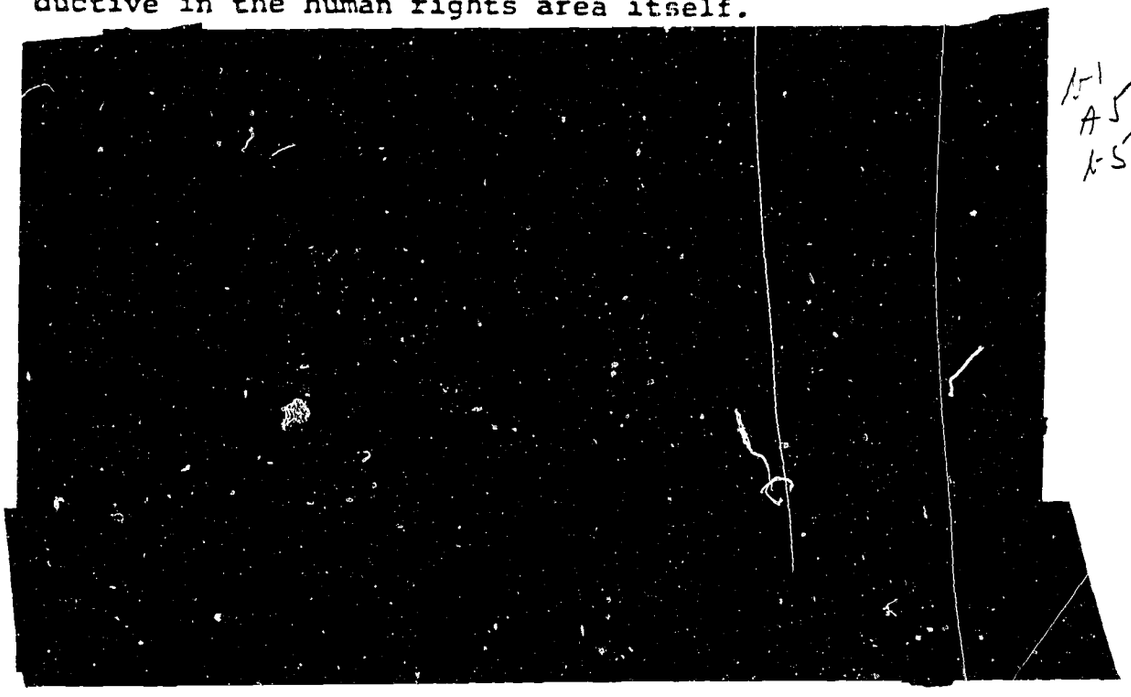
[redacted] believes that the human rights situation in Pakistan has NOT deteriorated in the past year; neither can the Pakistani Government be considered one which falls to the standard of human rights violations of other included countries. The military regime has announced that the previously postponed national elections will be held between March and October, 1979. The trend in public trials has been to remove the military from Martial Law justice and rely increasingly on civil courts. The Supreme Court trial of former Prime Minister Bhutto continues in accordance with strict judicial norms. No final decision has been reached, to say nothing of a decision to carry out the death penalty. The Department has consistently expressed our concerns on the observance of human rights in Pakistan to the highest levels of the government. They are aware of our position. In this light, [redacted] sees no reason to include Pakistan on the list when previously it was not included.



Syria

[redacted] strongly opposes the inclusion of a human rights clause for Syria, given the steady progress in this area under the Assad leadership. In March of this year, President Assad publicly committed his regime to work for extending individual freedoms. Within the Syrian parliament, growing attention has been given to issues of social welfare and improving the plight of Syria's poor. The League for Defense of Human Rights in Syria has become increasingly active and recently started a dialogue with the U. S. on the human rights issue.. A June issue of the Syrian police journal published by the Ministry of Interior strongly condemned the use of torture in extracting confessions from these accused of crimes. To point the finger at Syria at the present time would be counterproductive and might seriously jeopardize progress in the current Middle East peace negotiations. As long as the Assad Government continues to improve its human rights record while maintaining its commitment to a negotiated Arab-Israeli settlement, [redacted]

believes that the Department should avoid sending any negative signal that would impact adversely on U. S. - Syrian bilateral relations or that might be counterproductive in the human rights area itself.

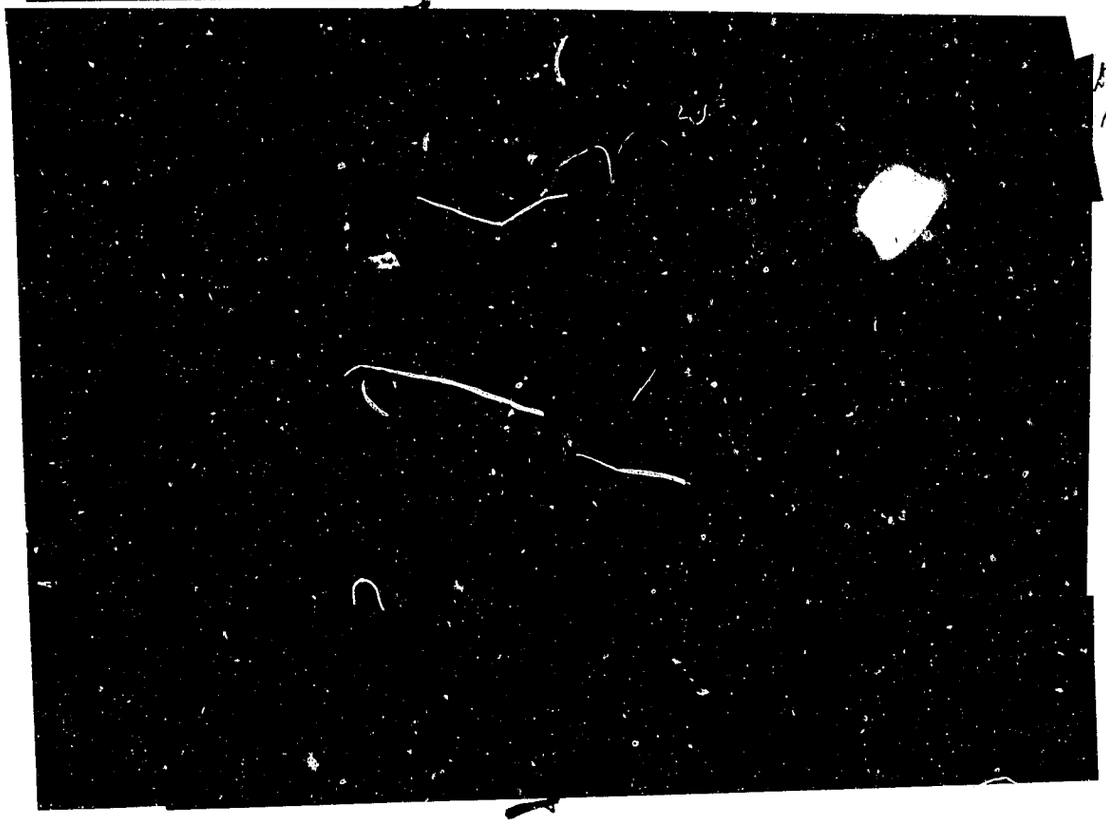


Tunisia

[redacted] believes that inclusion of language in the Tunisian agreement would lead the Tunisian Government to believe that the U. S. is characterizing Tunisia as a consistent gross violator of human rights. This would not only be inaccurate, but would poison the atmosphere for the upcoming Carter-Nouira talks in November. While the prolonged detention and security trial of Tunisian labor leaders gives rise to justifiable concerns, human rights observance in Tunisia should be seen in its totality. The Tunisian League for the Rights of Man continues to function and flourish. An opposition newspaper was recently given authority to publish and anti-government leaders are free to travel abroad or be openly critical of the government's policies. Although Government approval is still pending, the major opposition group is in the process of establishing itself a political

party. Tunisia has taken a moderate position on the Camp David accords, and the President's first priority during the visit is expected to be encouraging Tunisia's cooperation in the Middle East peace process.

[redacted]



THE OPTIONS

1. Add the language to the FY 1979 Title I agreements with Pakistan, Syria and Tunisia and maintain the language in the Title I agreement with Bangladesh. Papers describing the human rights situation are attached.

ADVANTAGES

-- This approach will ensure continued compliance with the legislative requirement.

-- The language reinforces the Administration's efforts to make Title I more directly benefit the poor.

DISADVANTAGES

-- Addition of the human rights clause could cause friction with recipient governments and lead to delays in negotiating Title I agreements.

2. Do not include language in the FY 1979 Title I agreements with Bangladesh, Pakistan, Syria and Tunisia.

ADVANTAGES

-- This approach would not jeopardize our bilateral relations programs as indicated above, nor would it delay the negotiation of the agreements.

-- The Department would be in compliance with the letter and spirit of the legislation by excluding countries which do not engage in "a consistent pattern of gross violations of internationally recognized human rights."

-- We would avoid confusing the leadership for countries where there has been progress in human rights observance.

DISADVANTAGES

-- Non-inclusion of language in all but the most serious cases might give the impression that a "hit-list" has been created.

-- The accounting workload of our AID missions would not be minimized although, with the exception of the mission in Dacca, neither would it increase.

RECOMMENDATION

That you authorize inclusion of the human rights language in Title I agreements with all or some of the four countries discussed.

Bangladesh	Approve ✓	NOV 16 1978 WC 11/6
	Disapprove	
Pakistan	Approve	NOV 16 1978
	Disapprove ✓	
Syria	Approve	NOV 16 1978
	Disapprove ✓	
Tunisia	Approve	
	Disapprove ✓	NOV 16 1978
Somalia	Approve ✓	NOV 16 1978
Attachments:	Disapprove	S/S 7728539

Tab 1 — November 9, 1977 Memo on PL 480 I. Reporting Requirement

Tab 2 — Human Rights Papers on Syria, Pakistan, Bangladesh and Tunisia

Tab 3 — 1979 PL 480 I Country List

Drafted by:HA/HR:MBova:djr/d/djr
10/25/78:X22126

Concurrences:AID/PPC:MZak
AID/FFP:WJennette
AF/I:JBuncher
ARA:GLister
EA/RA:PCleveland
NEA/RA:RGraham
AF/I: Shurtleff ok
EB/OFP: Platt ok

Initial P.L. 480 Concessional Sales Allocations FY 1979
(Commodities: 1,000 metric tons/bales)

Country $500 or less GNP	$ Million Total	Wheat	Rice	Feedgrains	Vegoil	Total Food	Cotton	Tobacco
Bangladesh	82.1	400	-	-	22	422	-	-
Bolivia	12.0	100	-	-	-	100	-	-
Egypt	184.8	1,500 a/	-	-	-	1,500	-	-
Guinea	5.5	10 a/	10	-	2	22	-	-
Guyana	2.3	3	-	-	2	5	-	0.1
Haiti	20.0	65	15	-	11	91	-	-
Honduras	1.8	15	-	-	-	15	-	-
Indonesia	104.3	200	300	-	-	500	-	-
Madagascar	1.4	-	5	-	-	5	-	-
Morocco	10.8	50	-	50	-	100	-	-
Pakistan	40.0	280	-	-	10	290	-	-
Philippines	10.0	25	-	-	-	25	14	0.5
Senegal	7.0	-	25	-	-	25	-	-
Sierra Leone	2.3	5	-	5	1	11	-	0.2
Somalia	10.7	25	10	27	3	65	-	-
Sri Lanka	12.8	100 a/	-	-	-	100	-	-
Sudan	20.0	163 a/	-	-	-	163	-	-
Zaire	21.4	65	30	-	-	95	10	0.5
Zambia	10.0	40	5	-	7	52	-	-
Subtotal	539.2	3,046	400	82	58	3,586 (788)	24	1.3
Country Over $500 GNP								
Dominican Republic	15.0	25	-	33	10	68	-	0.5
Israel	5.8	45	-	-	-	45	-	-
Jamaica	10.0	32 a/	-	64	-	96	-	-
Jordan	5.8	45	-	-	-	45	-	-
Korea	40.0	155	-	80	-	235	40	-
Mauritius	2.9	-	10	-	-	10	-	-
Peru		-	50	-	9	59	-	-
Portugal		70	10	193	-	273	25	0.5
Syria	.1	44 a/	15	-	-	59	-	0.5
Tunisia	2.0	60	-	50	-	110	-	-
Subtotal	162.8	476	85	420	19	1,000 (228)	65	1.5
Unallocated	83.0	650	15	-	-	665	-	-
Total	785.0	4,172	500	502	77	5,251	89	2.8

a/ Wheat equivalent of flour or contains some portion of wheat equivalent of flour.

OCR Edition 9-25-78

HUMAN RIGHTS: BANGLADESH

In 1978, the military government which has ruled impoverished and overpopulated Bangladesh since the 1975 coup, sponsored a multi-party election which resulted in the strong endorsement as President of the Chief Martial Law Administrator, General Zia. Although some parties were suppressed, the political spectrum allowed to participate in the election was wide and the debate permitted prior to the election free. The military government is now moving toward parliamentary elections scheduled for December. All but two political parties will participate. The Democratic League of imprisoned former President Mustaque Ahmed and the Communist Party of Bangladesh are banned.

The earlier government of Sheikh Mujibur Rehman had imprisoned large numbers of persons, many for political reasons. The Zia government has so far released over 12,000 and may release more. On the other hand, the new government has arrested over 100 political figures. Many have been charged with and convicted of the non-political crime of corruption, like Mustaque Ahmed. It is estimated that 700-800 persons who could be called political prisoners remain incarcerated, many of them still detained from the previous regime.

The major violation of human rights by the Zia government has been the execution of a estimated 217 soldiers - some summarily and others after secret trials - following a mutiny against the regime in 1977. The government claims that military justice procedures were followed and admits to the execution of 37 persons after in camera court martial.

There have been no recent reports of torture of prisoners by Bangladesh authorities, though mistreatment occasionally occurs. Martial law rules have limited political meetings to indoor affairs. The government still controls to some extent the press, which is obliged to exercise self-censorship. No newspaper, however, has been forced to close by the military government.

Freedom of religion and equality of minorities and women are honored in the Bangladesh constitution and legal tradition. Nevertheless, discrimination against a minority group, the Biharis (non-Bengali, Urdu-speaking Muslims) continues. Government efforts to alleviate the problem by "repatriation" to Pakistan have foundered on the unwillingness of the Pakistan government to accept large numbers of them.

In the wake of the overthrow of the Mujib government, which was widely acknowledged to have been corrupt and ineffective in its political and economic program, the major effort of the Zia government has been devoted to the strengthening of fundamental institutions, reintroducing government control and public order. A meaningful economic program has been launched focused on increasing agricultural production by the great mass of poorer farmers. If the current three year run of good luck continues on crops and the absence of natural disasters, it may be possible for the government to accelerate the programs already in place for improving economic infrastructur and bringing resources to those who need them the most. But these efforts will require persistent and steady foreign-aid support for many years to come if they are to be even minimally effective.

HUMAN RIGHTS: Syria

Human rights criticism of Syria's performance has centered primarily on two areas: the use of detention without trial in certain political and se ity cases and allegations of the use or threat of t re in interrogations.

[redacted]

Syria continues to be plagued by a series of successful and attempted assassinations and other terrorist-style incidents directed primarily against relatives, associates and fellow clansmen of President Assad.

[redacted]

The average Syrian probably does not, as he had under previous regimes, live in constant fear of arbitrary arrest and he is also probably more confident in voicing criticism of official policy than at any time since the mid-1950's.

Assad has committed his regime to work for the extension of individual freedom. Several hundred prisoners, including many Palestinians detained during the Lebanese civil strife, have been released.

The highest levels of the Syrian Government have continued to express their readiness to consider further petitions for emigration to this country by unmarried Jewish women sympathetically.

There are signs of a new vitality in the Syrian parliament over recent months, including genuine, rather than pro forma, debates on issues of public concern (e. g., fuel oil prices). Our Embassy has begun to hear complaints from Ministers that the parlia ent is holding them to stricter standards of accountability.

An indigenous Syrian human rights organization is functioning, with the approval of the Assad government, with new vitality. It has been apparently effective in investigating several cases of prolonged detention.

HUMAN RIGHTS: PAKISTAN

The military regime under General Zia-ul-Haq, which has governed Pakistan since July 1977, overthrew the previous government of Zulfikar Ali Bhutto with the announced intention of scheduling elections for October 1977. Elections were then postponed until after the completion of the legal process against Bhutto in which he received a death sentence from the lower courts, now under review by the Supreme Court. A specific time frame for the elections has recently been announced - March-October 1979.

The Government has introduced martial law provisions curtailing fundamental freedoms, including the practice of trying civilians before military courts. The regime has temporarily suspended several newspapers and repeatedly arrested and detained journalists and political personalities opposed to the regime. There have been improvements in the ordinary court system, and the government received a visit by Amnesty International representatives in 1978.

The military government has endorsed a return to traditional punishments codified in the Shariat, the Muslim traditional code, and has carried out public flogging as a punishment for some crimes. There may also have been floggings administered without judicial sanction. One non-government organization reports that as many as 160 convicted persons may have been flogged since the regime came to power in 1977. The regime has also endorsed cutting off the hand of convicted recidivistic thieves, but there is no evidence that this punishment has actually been inflicted.

The Zia government has released thousands of prisoners incarcerated under its predecessors. Some claims put the number of political prisoners under the Bhutto regime as high at 50,000. However, there have been a substantial number of detentions without a charge or trial of political figures associated with the previous regime, including the house arrest of former Prime Minister Bhutto's daughter. There may be as many as 2,000 political detainees, but both the courts and the regime itself are releasing such detainees on an accelerated basis. Other opposition figures have been charged, tried and convicted of corruption and like crimes. The main charge against Bhutto was murder. Appeals have come from international human rights groups and many foreign countries for eventual commutation of his death sentence.

Limited preventive detention of persons who might act in a manner "prejudicial" to the regime is authorized under Martial Law Order 12 of July, 1977. The use of summary military courts for trying political detainees results in continued denial of due process. However, the civil courts are regularly issuing effective writs of habeas corpus in the cases of arbitrarily detained persons, and detainees are permitted access to civilian counsel.

Freedom of Thought, Speech, Press, Religion, and Assembly

Freedom of speech is restricted by martial law regulations limiting political activities and expression. Martial law regulations also prohibit political meetings in "open public places," but political leaders have been permitted to meet with one another and political discussions in small groups are not forbidden. Journalists have been detained temporarily without charge or trial for, among other things, protesting the closing of newspapers considered to have printed articles hostile to the regime.

Freedom of religion is substantially protected by the Constitution.

The public trial of the former Prime Minister and some of his political associates has led to charges of use of the courts by the military regime for political purposes, but the appeals procedures which has ensued appears to be proceeding as the judges, and not the regime, direct.

The Government of Pakistan has not interfered with the existence of "The Human Rights Society of Pakistan" which includes at least one prominent labor leader. The Human Rights Society has spoken out publicly against the imposition of the death penalty for Bhutto. A number of private attorneys in Pakistan are engaged in legal aid activities and have organized themselves to provide legal aid to persons detained for political activities. There is also in existence the Pakistan Forum for Civil Liberties, which is said to be compiling a history of civil liberties suppression in Pakistan during the past thirty years.

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Human Rights in Tunisia

Tunisia's single party government has now been in power for about twenty years [redacted] An opposition has therefore arisen among elements of the party which has been resisted and sometimes suppressed by the more traditional leadership.

The principal human rights developments in Tunisia during the last year were the January civil disturbances which resulted in intervention by the armed forces with considerable loss of life, and the trial of labor leaders charged with fomenting a plot ot overthrow the government. Some of those tried have claimed publicly both in the State Security Court sessions and in the civil court sessions which preceded them, that they were tortured by law enforcement authorities to extract statements. Some of the Tunisian press and Amnesty International have repeated these charges, demanding a government investigation of the allegations. The Tunisian Government has vehemently denied allegations of systematic torture by its police authorities. These has as yet been no report flowing from an investigation which the Tunisian Government is undertaking.

When similar allegations were made last year during a treason trial, the GOT permitted the Tunisian League for the Rights of Man to investigate these charges. The League's report noted that allegations of torture could not be substantiated but did point to substandard conditions in most Tunisian penal institutions. Embassy Tunis reports the League is expected shortly to issue its report on the allegations of torture made by some of the defendants at the recent trials.

Thr trial of thirty former labor leaders was concluded October 10. Six defendants were acquitted, eight received suspended sentences, while 15 others, including 68 year old UGTT leader Habib Achour, received sentences from 5 to 10 years at hard labor. The trial was conducted by the State Security Court only after the civil court declared itself incompetent to try the charges.

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Numerous international observers were permitted to attend the trial, including representatives of the ICFTU and the AFL-CIO, who also were allowed by the court to testify. Both the AFL-CIO and the ICFTU have expressed concern about trial proceedures.

[redacted]

The Government permits its critics who are trying to form a political party, to publish several newspapers. Critics of the government travel freely and maintain regular contact with foreign embassies, including our own. The Tunisian League for the Rights of Man is also permitted to operate freely.

The Government of Tunisia has long successfully encouraged a policy of rapid economic development. Tunisia's performance has been lauded by international developmental institutions and cited as a model for emulation by other LDCs. Unemployment is a problem in Tunisia, but the GOT has successfully made the creation of new jobs a high priority. According to Tunisian statistics, 35,000 jobs are being created annually in the industrial sector alone. The GOT has placed emphasis on channelling the benefits of development assistance to the poorest of its people.

Drafted:NEA/AFN:ALegio-HA/HR:EOJones:nfc
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